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9 Attorneys for Plaintiff
UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,
13

14 Plaintiff,

15 v.

16 WAYNE ANTHONY MORAN,
17

Defendant.

No. CR 18-200 (A) -DMG

DOCUMENT UNDER SEAL

[UNDER SEAL]

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12 UNITED STATES OF AMERICA,

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14 v.

15 WAYNE ANTHONY MORAN,

16 Defendants.

No. CR 18-200 (A) -DMG

GOVERNMENT'S MOTION FOR FINDING
THAT DEFENDANT WAYNE ANTHONY MORAN
BREACHED THE PLEA AGREEMENT;
EXHIBITS

Hearing Date: Jan. 19, 2022

Hearing Time: 2:30 p.m.

Location: Courtroom of the
Hon. Dolly M. Gee

[UNDER SEAL]

21 Plaintiff United States of America, by and through its counsel
22 of record, the Acting United States Attorney for the Central District
23 of California and Assistant United States Attorneys Dennis Mitchell
24 and Heather C. Gorman, hereby seeks a judicial finding that defendant
25 Wayne Anthony Moran breached the Amended Plea Agreement, filed on
26 June 15, 2018 (the "Plea Agreement").
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1 This motion is based upon the attached memorandum of points and
2 authorities, the files and records in this case, and such further
3 evidence and argument as the Court may permit.

4 Dated: November 18, 2021

Respectfully submitted,

5 TRACY L. WILKISON
6 United States Attorney

7 SCOTT M. GARRINGER
8 Assistant United States Attorney
9 Chief, Criminal Division

10 /s/

11 _____
12 DENNIS MITCHELL
13 HEATHER C. GORMAN
14 Assistant United States Attorneys

15 Attorneys for Plaintiff
16 UNITED STATES OF AMERICA
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MEMORANDUM OF POINTS AND AUTHORITIES**A. Introduction**

On June 15, 2018, defendant Wayne Anthony Moran ("defendant") pleaded guilty, pursuant to an Amended Plea Agreement filed the same day (the "Plea Agreement"), to conspiracy to smuggle goods into the United States, in violation of 18 U.S.C. § 371. The Plea Agreement imposed various obligations on defendant, including among other things, that defendant, if requested to do so, act in an undercover capacity to the best of defendant's ability in connection with criminal investigations by federal, state, local, or foreign law enforcement authorities, and in accordance with the express instructions of those law enforcement authorities. Plea Agreement ¶ 3(b). As explained below, defendant violated his obligations in the plea agreement by failing to turn over proceeds in the amount of \$24,745.07 that he received from an undercover sale of naltrexone pellets that defendant conducted at the direction of law enforcement in June 2018. The sale of the naltrexone pellets would have been illegal had it not been done at the direction enforcement. Specifically, it would have violated the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., and 18 U.S.C. § 545.

B. Factual Background

The undercover transaction is described in U.S. Food and Drug Administration, Office of Criminal Investigations ("FDA-OCI") Report of Investigation for the period from April 13, 2018, to July 13, 2018 (Document No. 266195) (attached hereto as Exhibit A) and in the notes of FDA-OCI Special Agent ("SA") Michael Landon (attached hereto as Exhibit B). The undercover transaction is further reflected in emails sent by defendant to SA Landon (attached hereto as Exhibit C).

1 As set forth in the Report of Investigation and in SA Landon's notes,
2 between June 6 and June 12, 2018, defendant, acting at SA Landon's
3 direction, facilitated a sale of naltrexone pellets to a customer
4 located in Fountain Valley, California. Ex. A at USA-NTX_00000074,
5 Ex B.

6 On June 6, 2018, after receiving an email order from a customer
7 for naltrexone pellets, defendant forwarded the email to SA Landon,
8 noting "Please advise about how you wish me to proceed." Ex. C at
9 USA-NTX_00000808. After forwarding the email to SA Landon, defendant
10 communicated with SA Landon and, acting at SA Landon's direction,
11 responded to the customer's email to process the order requested by
12 the customer. Ex. B at USA-NTX_00067919, Ex. C at USA_00000812. At
13 that time, defendant understood that proceeds from the sale would be
14 transferred to the United States federal government. Ex. B at USA-
15 NTX_00067919; see also Ex. D, FDA-OCI Report of Investigation, for
16 the period from January 24, 2021, to February 19, 2021 (Document No.
17 289059), at USA-NTX_00000135.

18 On June 8, 2018, defendant received an email that \$24,745.07 had
19 be transferred into his bank account by the customer as payment for
20 the naltrexone pellets ordered. Ex. A at USA-NTX_00000074; Ex. C at
21 USA-NTX_00000815-16. Defendant forwarded that email to SA Landon on
22 June 13, 2018. Ex. C at USA-NTX_00000815-16. On June 12, 2018,
23 defendant sent an email to his agent in Hong Kong, with a blind copy
24 to SA Landon, requesting that the naltrexone pellets be shipped to
25 the customer in Fountain Valley, California. Ex. B at USA-
26 NTX_00067917; Ex. C at USA-NTX_000818.

27 On October 12, 2018, SA Landon sent an email to defendant and
28 indicated that a United States account had been opened that could

1 receive a wire transfer of the proceeds from the June 2018 undercover
2 sale. Ex. D at USA-NTX_00000142. SA Landon attached to the email a
3 copy of the wire transfer confirmation that defendant had previously
4 provided to SA Landon, which showed that Moran had received
5 \$24,745.07. Id. at USA-NTX_00000145. SA Landon requested in the
6 email that defendant "wire the same amount to the below bank account
7 and email me once it is completed. The wire must be in US dollars."
8 Id. at USA-NTX_00000142.

9 On October 23, 2018, SA Landon sent another email to defendant,
10 which stated, "As a follow up to this email, please let me know as
11 soon as possible when I should expect the wire transfer." Id. at
12 USA-NTX_00000147. SA Landon did not receive the proceeds from the
13 June 2018 undercover sale from defendant. See id. at USA-
14 NTX_00000135.

15 On February 19, 2021, SA Landon spoke by phone with defendant's
16 counsel, attorney Richard Novak. Id. During that conversation,
17 Novak acknowledged that he recalled Moran's agreement to transfer the
18 proceeds of the naltrexone order and that Novak had previously
19 instructed defendant to transfer the funds to the U.S. government.
20 Id. Novak also stated that he had spoken with defendant
21 intermittently and that he did not know defendant's financial
22 situation at that time. Id. SA Landon informed Novak that defendant
23 needed to transfer the funds immediately or it could bear on his
24 cooperation agreement. Id. Novak stated that he would contact
25 defendant again to instruct him to transfer the proceeds. Id.

26 Later, on February 19, 2021, SA Landon participated in a
27 conference call with Novak and Assistant United States Attorneys
28 ("AUSAs") Heather Gorman and Dennis Mitchell. Id. During that call,

1 AUSA Mitchell said that the funds had to be repaid now. Id. Novak
2 stated that he had explained the importance of the repayment with
3 defendant in the past. Id. Novak further stated that, after he had
4 spoken to SA Landon earlier that day, he emailed defendant to set up
5 a time to discuss the repayment. Id. Novak further stated that he
6 would reinforce the importance of repayment with Moran during the
7 anticipated discussion. Id. at USA-NTX_00000135-36.

8 Despite the foregoing, defendant has failed to transfer the
9 proceeds from the June 2018 undercover transaction.

10 **C. Breach of Plea Agreement**

11 Defendant's failure to comply with the SA Landon's instructions
12 to transfer the proceeds from the undercover sale constitutes a
13 breach of the Plea Agreement. In the Plea Agreement, defendant
14 agreed "to cooperate fully with the USAO, the United States Food and
15 Drug Administration, and as directed by the USAO, any other federal,
16 state, local, or foreign prosecuting enforcement, administrative, or
17 regulatory authority." Plea Agreement ¶ 3. Specifically,
18 defendant's cooperation required defendant to: "Produce voluntarily
19 all documents, records, or other tangible evidence relating to
20 matters about which the USAO, or its designee, inquires," and "If
21 requested to do so by the USAO, act in an undercover capacity to the
22 best of defendant's ability in connection with criminal
23 investigations by federal, state, local, or foreign law enforcement
24 authorities, in accordance with the express instructions of those law
25 enforcement authorities." Plea Agreement ¶¶ 3(a), (b).

26 At the time that defendant received the customer's order, he had
27 been charged in this case, met with the government, and agreed to
28 cooperate with the government's investigation. Moreover, defendant

1 was fully aware that shipping the naltrexone pellets was prohibited.
2 Defendant was only permitted to fulfill the order and ship the
3 naltrexone pellets because he was acting at SA Landon's direction.
4 At the time defendant fulfilled the order, he was informed and
5 understood that the proceeds from the sale must be transferred to the
6 United States government. Nevertheless, defendant failed to do so,
7 and thereby failed to act in accordance with the express instructions
8 of law enforcement.

9 **D. Conclusion**

10 Based on the foregoing, the government respectfully requests
11 that this Court find defendant in breach of the Plea Agreement.
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CERTIFICATE OF SERVICE

I, **Catherine Wilkinson**, declare:

That I am a citizen of the United States and a resident of or employed in Los Angeles County, California; that my business address is the Office of United States Attorney, 312 North Spring Street, Los Angeles, California 90012; that I am over the age of 18; and that I am not a party to the above-titled action;

That I am employed by the United States Attorney for the Central District of California, who is a member of the Bar of the United States District Court for the Central District of California, at whose direction I served a copy of: **EX PARTE APPLICATION FOR ORDER SEALING DOCUMENT;**
PROPOSED ORDER SEALING DOCUMENT; UNDER SEAL DOCUMENTS

☐ Placed in a closed envelope for collection and inter-office delivery, addressed as follows:

☐ Placed in a sealed envelope for collection and mailing via United States mail, addressed as follows:

☐ By hand delivery, addressed as follows:

☐ By facsimile, as follows:

☒ Via email, as follows:

☐ By Federal Express, as follows:

richard@rgnlaw.com

This Certificate is executed on **November 18, 2021**, at Los Angeles, California. I certify under penalty of perjury that the foregoing is true and correct.

Catherine Wilkinson

Catherine Wilkinson
Legal Assistant